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EXAMINER

LEE, DORIS L

ART UNIT

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Attachment to Advisory Action

1. Applicants' amendment filed February 10, 2009 has been fully considered; however, the amendment has not been entered given that it raises other new issues that would require further consideration and/or search.

With respect to new issues, independent claim 1 has been amended remove previous combinations (III) and (IV). It is the examiner's position that this is a new issue since this combination was not presented before, i.e., claims dependent on 1 were not presented before with this combination. Therefore, the amendment would require further consideration and/or search.

In the interest of better enabling the applicants to assess the patentability of their claims, the following response to applicant's arguments has been set forth below. If the amendment had been entered, the rejections as set forth in the office action mailed on November 24, 2008 would have been maintained. The arguments set forth in the remarks filed on February 10, 2009 have been considered, but are not persuasive for the reasons as set forth below.

2. **Applicant's argument:** Kato recites the requirement of trimethyl phosphate, tributyl phosphate, or tributyl phosphite, which are not required in the present application and as such Kato teaches away from the present application.

Examiner's response: As claim 1 uses the word comprising which is a recognized transitional phrase which opens the scope to additional ingredients (see MPEP 2111.03).

3. **Applicant's argument:** Mortlock also requires the use of a phosphoric acid stabilizer, thus teaching away from the present application.

Examiner's response: *Mortlock is used to teach the equivalency of the IRGANOX 1010 and 1098 and as such the phosphoric acid stabilizer is not a critical aspect of the rejection.*

4. **Applicant's argument:** Kamachi teaches away from the present application.

Examiner's response: *Kamachi is used as an evidentiary reference to teach the structure of IRGANOX 1098.*

5. **Applicant's argument:** Using a Texas Tech article, applicants argue that combining first research results with second research results to try to achieve a goal is not generally a readily predictable method of achieving a result in chemistry. The Supreme Court has acknowledged that in chemical reactions in particular, results are not predicable.

Examiner's response: *The Texas Tech article seems to be directed toward reactions of chloride ions and methyl iodide compounds and seems to not be applicable to the present invention which involves a polytrimethylene terephthalate composition.*

6. **Applicant's argument:** Takenouchi teaches away from the independent claim 1.

Examiner's response: *As Takenouchi teaches the equivalency of the hindered phenol compositions in col. 20, lines 43-47.*

7. **Applicant's argument:** Gross teaches away from amended independent claim 1.

Examiner's response: *Gross is used as an evidentiary reference.*

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8. **Applicant's argument:** Stauffer teaches away from independent claim 1.

Examiner's response: *Stauffer is a secondary teaching reference.*

9. **Applicant's argument:** Neither PET nor PBT includes a secondary amine, as utilized in independent claim 1.

Examiner's response: *The secondary amine is part of component B, not of the polytrimethylene terephthalate.*

/DL/

/Vasu Jagannathan/
Supervisory Patent Examiner, Art Unit 1796